

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

KATHRYN A. BALLE,

Plaintiff,

v.

JO ANNE BARNHART, or her Substitution  
Commissioner of Social Security  
Administration,

Defendant.

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Civil Action No. H-07-2692

**DEFENDANT'S ANSWER  
AND AFFIRMATIVE DEFENSES**

Defendant, files this answer and affirmative defenses to Plaintiff's Original Complaint showing as follows:

**PLAINTIFF'S ORIGINAL COMPLAINT**

**I. INTRODUCTION**

The Introduction sets forth the alleged basis for Plaintiff's causes of action and, as such, constitute conclusions of law to which no response is required. To the extent that the Introduction contains allegations of fact related to acts of discrimination, Defendant denies the allegations contained therein.

**II. JURISDICTION**

1. The numbered paragraphs 2 and 3 of subsection II sets forth the alleged jurisdictional basis for Plaintiff's causes of action and, as such, constitute conclusions of law to which no response is required.

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III. VENUE

1. Defendant admits that venue is proper in this District as alleged in paragraph 5..

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IV. PARTIES

1. Defendant admits that Plaintiff was employed at the Social Security Administration in the Southern District of Texas.
2. Defendant admits the allegations in paragraph 8. However, the current SSA Commissioner is Michael J. Astrue.

V. PROCEDURAL HISTORY

1. Defendant denies that Plaintiff has exhausted her administrative remedies as alleged in paragraphs 9 and 10.

VI. OPERATIVE FACTS

1. Defendant admits the allegations in paragraph 12(a) of subsection VI but denies that the named supervisors were responsible for discrimination and wrongful termination.
2. Defendant admits the allegations in paragraph 12(b) of subsection VI.
3. Defendant admits the allegations in paragraph 12(c) of subsection VI.
4. Defendant denies the allegations in paragraph 12(d) of subsection VI.
5. Defendant denies the allegations in paragraphs 13 and 14 of subsection VI.
6. Defendant admits the allegations in paragraph 15 of subsection VI.
7. Defendant denies that Plaintiff was wrongfully terminated as alleged in paragraph 16 of subsection VI.

VII. COUNTS OF DISCRIMINATION

1. Defendant denies the entirety of the allegations contained under Counts One, Two, Three, Four and Five, and in paragraph 17.

### VIII. REMEDIES

1. Defendant denies the entirety of the allegations contained in paragraphs 18 and 19(a)-(g) and that Plaintiff is entitled to any of the relief sought therein.

### IX. JURY DEMAND

1. Defendant admits that Plaintiff has demanded a jury trial as stated in paragraph 21.

Defendant denies each and every allegation in the Plaintiff's Complaint that is not specifically admitted in this Answer.

#### FIRST AFFIRMATIVE DEFENSE

Plaintiff has failed to exhaust her administrative remedies with regard to one or more of the allegations in the Complaint.

#### SECOND AFFIRMATIVE DEFENSE

Plaintiff has failed to exhaust her administrative remedies with regard to her allegation of gender discrimination.

#### THIRD AFFIRMATIVE DEFENSE

Plaintiff cannot establish a *prima facie* case of discrimination on the basis of sex (gender), age, National Origin (Mexican-American) and race (Hispanic).

#### FOURTH AFFIRMATIVE DEFENSE

Plaintiff cannot establish a *prima facie* case of hostile work environment.

#### FIFTH AFFIRMATIVE DEFENSE

Plaintiff cannot establish that Defendant's legitimate, non-discriminatory reasons for each of the challenged actions are a pretext for discrimination.

#### SIXTH AFFIRMATIVE DEFENSE

Plaintiff fails to state a claim upon which relief can be granted.

WHEREFORE, Defendant prays,

(a) For an order dismissing Plaintiff's Complaint and awarding Defendant costs and disbursements in this action; and

(b) For such other and further relief as this court may deem just and proper.

Respectfully submitted,

DONALD J. DeGABRIELLE, JR.  
UNITED STATES ATTORNEY

*/s/ William E. Yahner*  
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ATTORNEY FOR DEFENDANT

**CERTIFICATE OF SERVICE**

This will certify that a copy of this Defendant's Answer And Affirmative Defenses was served by the electronic filing system of the District Clerk and U.S. mail on February 11, 2008 to counsel in this case.

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/s/ William E. Yahner

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